

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DATE FILED: 2/5/2021

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JIMMY EKPE,

Plaintiff,

-against-

KAMLESH PATEL, et al.,

Defendants.
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20-CV-9143 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

On October 30, 2020, Plaintiff filed this action against Defendants Kamlesh Patel, City of New York, Department of Aging, Jack Rizzo, Caryn Resnick, and Sal Rullan. (Doc. 1.) Plaintiff has tried to obtain summonses, but was notified multiple times, on January 14 and January 20, that such requests were deficient. To date, Plaintiff has not remedied these errors, filed an affidavit of service, or taken any other action to prosecute this case. Accordingly, it is hereby:

ORDERED that, no later than February 11, 2021, Plaintiff shall submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 187 F.R.D. 503, 505 (S.D.N.Y. 1999) (internal quotation marks omitted). “District courts consider the diligence of plaintiff’s efforts to effect proper service and any prejudice suffered by the defendant as a consequence of the delay.” *Id.* (internal quotation marks omitted). “An attorney’s inadvertence, neglect, mistake or misplaced reliance does not

constitute good cause.” *Howard v. Klynveld Peat Marwick Goerdeler*, 977 F.Supp. 654, 658 (S.D.N.Y.1997) (citing *McGregor v. United States*, 933 F.2d 156, 160 (2d Cir.1991), *aff’d*, 173 F.3d 844 (2d Cir.1999)). Plaintiff is warned that failure to submit a letter and to demonstrate good cause for failure to serve Defendants within ninety days after the complaint was filed will result in dismissal of this action.

SO ORDERED.

Dated: February 5, 2021
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick", written over a horizontal line.

VERNON S. BRODERICK
United States District Judge